

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

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BILL DRAFT 2015-TMz-1 [v.5] (11/10)

**(THIS IS A DRAFT AND IS NOT READY FOR INTRODUCTION)
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Short Title: Unemployment Insurance Law Changes. (Public)

Sponsors: (Primary Sponsor).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO AMEND THE UNEMPLOYMENT INSURANCE LAWS.

3
4 The General Assembly of North Carolina enacts:

5
6 **PART I: AUTHORIZING DMV TO DISCLOSE SOCIAL SECURITY NUMBERS;
7 REQUIRING UI CLAIMANTS TO CONTACT FIVE POTENTIAL EMPLOYERS PER
8 WEEK; AND ELIMINATING THE PROCEDURE TO REQUEST
9 RECONSIDERATION OF DECISIONS.**

10 **SECTION 1.1.** G.S. 20-7(b2) reads as rewritten:

11 "(b2) Disclosure of Social Security Number. – The social security number of an applicant
12 is not a public record. The Division may not disclose an applicant's social security number
13 except as allowed under federal law. A violation of the disclosure restrictions is punishable as
14 provided in 42 U.S.C. § 408, and amendments to that law.

15 In accordance with 42 U.S.C. 405 and 42 U.S.C. 666, and amendments thereto, the Division
16 may disclose a social security number obtained under subsection (b1) of this section only as
17 follows:

- 18 (1) For the purpose of administering the drivers license laws.
- 19 (2) To the Department of Health and Human Services, Child Support
20 Enforcement Program for the purpose of establishing paternity or child
21 support or enforcing a child support order.
- 22 (3) To the Department of Revenue for the purpose of verifying taxpayer
23 identity.
- 24 (4) To the Office of Indigent Defense Services of the Judicial Department for
25 the purpose of verifying the identity of a represented client and enforcing a
26 court order to pay for the legal services rendered.
- 27 (5) To each county jury commission for the purpose of verifying the identity of
28 deceased persons whose names should be removed from jury lists.
- 29 (6) To the Office of the State Controller for the purposes of G.S. 143B-426.38A.
- 30 (7) To the Department of Commerce, Division of Employment Security, for the
31 purpose of verifying employer and claimant identity."

32 **SECTION 1.2.(a)** G.S. 96-9.2(c) reads as rewritten:

33 "(c) Contribution Rate for Experience-Rated Employer. – The contribution rate for an
34 experience-rated employer who does not qualify as a beginning employer under subsection (b)



1 of this section is determined in accordance with the table set out below and then rounded to the
2 nearest one-hundredth percent (0.01%), subject to the minimum and maximum contribution
3 rates. The minimum contribution rate is six-hundredths of one percent (0.06%). The maximum
4 contribution rate is five and seventy-six hundredths percent (5.76%). "Total insured wages" are
5 the total wages reported by all insured employers for the 12-month period ending on ~~July 31~~
6 June 30 preceding the computation date. An employer's experience rating is computed as a
7 reserve ratio in accordance with G.S. 96-9.4. An employer's reserve ratio percentage (ERRP) is
8 the employer's reserve ratio multiplied by sixty-eight hundredths. A positive ERRP produces a
9 lower contribution rate, and a negative ERRP produces a higher contribution rate.
10"

11 **SECTION 1.2.(b)** This section is effective when it becomes law and applies to
12 contributions payable for calendar quarters beginning on or after January 1, 2014.

13 **SECTION 1.3.(a)** G.S. 96-14.9(e) reads as rewritten:

14 "(e) **Actively Seeking Work.** – The Division's determination of whether an individual is
15 actively seeking work is based upon the following:

- 16 (1) The individual is registered for employment services, as required by the
17 Division.
- 18 (2) The individual has engaged in an active search for employment that is
19 appropriate in light of the employment available in the labor market and the
20 individual's skills and capabilities.
- 21 (3) The individual has ~~sought work on at least two different days during the~~
22 ~~week and made at least two five~~ job contacts with potential
23 ~~employers.~~ employers during the week.
- 24 (4) The individual has maintained a record of the individual's work search
25 efforts. The record must include the potential employers contacted, the
26 method of contact, and the date contacted. The individual must provide the
27 record to the Division upon request."

28 **SECTION 1.3.(b)** This section becomes effective July 1, 2015, and applies to
29 claims for benefits filed on or after that date.

30 **SECTION 1.4.(a)** G.S. 96-15(h) reads as rewritten:

31 "(h) **Judicial Review.** – ~~Any A~~ decision of the Division, in the absence of judicial review
32 ~~as herein provided, or in the absence of an interested party filing a request for reconsideration,~~
33 ~~shall become Board of Review becomes final 30 days after the date of notification or mailing~~
34 ~~thereof, whichever is earlier. unless a party to the decision seeks judicial review as provided in~~
35 this subsection. Judicial review shall be is permitted only after a party claiming to be aggrieved
36 by the decision has exhausted his remedies before the Division as provided in this Chapter the
37 remedies provided in this Chapter and has filed a petition for review in the superior court of the
38 county in which he the petitioner resides or has his the county in which the petitioner's principal
39 place of business. business is located. The petition for review ~~shall~~ must explicitly state what
40 exceptions are taken to the decision or procedure ~~of the Division~~ and what relief the petitioner
41 seeks. Within 10 days after the petition is filed with the court, the petitioner ~~shall~~ must serve
42 copies of the petition by personal service or by certified mail, return receipt requested, upon the
43 Division and upon all parties of record to the Division proceedings. The Division must furnish
44 the petitioner the names Names and addresses of the parties ~~shall be furnished to the petitioner~~
45 ~~by the Division~~ upon request. The Division ~~shall be deemed to be is~~ a party to any judicial
46 action involving any of its decisions and may be represented in the judicial action by any
47 qualified attorney who has been designated by it for that purpose. Any questions regarding the
48 requirements of this subsection concerning the service or filing of a petition ~~shall~~ must be
49 determined by the superior court. Any party to the Division proceeding may become a party to
50 the review proceeding by notifying the court within 10 days after receipt of the copy of the

1 petition. Any person aggrieved may petition to become a party by filing a motion to intervene
2 as provided in G.S. 1A-1, Rule 24.

3 Within 45 days after receipt of the copy of the petition for review or within such additional
4 time as the court may allow, the Division ~~shall~~must transmit to the reviewing court the original
5 or a certified copy of the entire record of the proceedings under review. With the permission of
6 the court the record may be shortened by stipulation of all parties to the review proceedings.
7 Any party unreasonably refusing to stipulate to limit the record may be taxed by the court for
8 ~~such~~the additional cost as is ~~occasioned~~incurred by the refusal. The court may require or
9 permit subsequent corrections or additions to the record when ~~deemed~~the court considers the
10 changes desirable."

11 **SECTION 1.4.(b)** This section becomes effective July 1, 2015, and applies to
12 decisions made on or after that date.

13 **SECTION 1.5.(a)** G.S. 96-3 reads as rewritten:

14 **"§ 96-3. Division of Employment Security.**

15 The Division of Employment Security (DES) is created within the Department of
16 Commerce and shall administer the provisions of this Chapter under the supervision of the
17 Assistant Secretary of ~~Commerce~~Commerce~~through two coordinate sections: the Employment~~
18 ~~Security Section and the Employment Insurance Section. The Employment Security Section~~
19 ~~shall administer the employment services functions of the Division. The Employment Insurance~~
20 ~~Section shall administer the unemployment taxation and assessment functions of the Division."~~

21 **SECTION 1.5.(b)** G.S. 96-4(j) reads as rewritten:

22 "(j) Hearings. – The Assistant Secretary shall appoint hearing officers or appeals
23 referees to hear contested matters arising from the ~~Employment Security Section and the~~
24 ~~Employment Insurance Section.~~Division of Employment Security. Appeals from the decisions
25 of the hearing officers or appeals referees shall be heard by the Board of Review."

26 **SECTION 1.5.(c)** G.S. 96-9.15(f) reads as rewritten:

27 "(f) Domestic Employer Exception. – The Division may authorize an employer of
28 domestic service employees to file an annual report and to file that report by telephone. An
29 annual report allowed under this subsection is due on or before the last day of the month
30 following the close of the calendar year in which the wages are paid. A domestic service
31 employer that files a report by telephone must contact either the tax auditor assigned to the
32 employer's account or the ~~Employment Insurance Section~~Division of Employment Security in
33 Raleigh and report the required information to that auditor or to that section by the date the
34 report is due."
35

36 **PART II: GARNISHMENT AND ATTACHMENT FOR THE COLLECTION OF**
37 **UNPAID UI TAXES**

38 **SECTION 2.1.(a)** G.S. 1-359 reads as rewritten:

39 **"§ 1-359. Debtors of judgment debtor may satisfy execution.**

40 (a) After the issuing of an execution against property, all persons indebted to the
41 judgment debtor, or to any one of several debtors in the same judgment, may pay to the sheriff
42 the amount of their debt, or as much thereof as is necessary to satisfy the execution; and the
43 sheriff's receipt is a sufficient discharge for the amount paid.

44 (b) When the Division of Employment Security of the Department of Commerce
45 (Division) prevails in a civil action against an employer to collect unpaid employment taxes
46 under G.S. 96-10(b), the Division may attach or garnish the employer's credit card receipts in
47 payment of the unpaid taxes in the manner provided by subsection (a) of this section. Direct
48 receipt by the Division is a sufficient discharge for the amount paid by a credit card company
49 or clearinghouse."

50 **SECTION 2.1.(b)** G.S. 96-10(b)(1) reads as rewritten:

51 "(b) Collection. –

1 (1) If, after due notice, any employer defaults in any payment of contributions or
2 interest thereon, the amount due shall be collected by civil action in the
3 name of the Division, and the employer adjudged in default shall pay the
4 costs of such action. Civil actions brought under this section to collect
5 contributions or interest thereon from an employer shall be heard by the
6 court at the earliest possible date, and shall be entitled to preference upon the
7 calendar of the court over all other civil actions, except petitions for judicial
8 review under this Chapter and cases arising under the Workers'
9 Compensation Law of this State; or, if any contribution imposed by this
10 Chapter, or any portion thereof, and/or penalties duly provided for the
11 nonpayment thereof shall not be paid within 30 days after the same become
12 due and payable, and after due notice and reasonable opportunity for
13 hearing, the Division, under the hand of the Assistant Secretary, may certify
14 the same to the clerk of the superior court of the county in which the
15 delinquent resides or has property, and additional copies of said certificate
16 for each county in which the Division has reason to believe the delinquent
17 has property located. If the amount of a delinquency is less than fifty dollars
18 (\$50.00), the Division may not certify the amount to the clerk of court until a
19 field tax auditor or another representative of the Division personally
20 contacts, or unsuccessfully attempts to personally contact, the delinquent and
21 collect the amount due. A certificate or a copy of a certificate forwarded to
22 the clerk of the superior court shall immediately be docketed and indexed on
23 the cross index of judgments, and from the date of such docketing shall
24 constitute a preferred lien upon any property which said delinquent may own
25 in said county, with the same force and effect as a judgment rendered by the
26 superior court. The Division shall forward a copy of said certificate to the
27 sheriff or sheriffs of such county or counties, or to a duly authorized agent of
28 the Division, and when so forwarded and in the hands of such sheriff or
29 agent of the Division, shall have all the force and effect of an execution
30 issued to such sheriff or agent of the Division by the clerk of the superior
31 court upon a judgment of the superior court duly docketed in said county.
32 Provided, however, the Division may in its discretion withhold the issuance
33 of said certificate or execution to the sheriff or agent of the Division for a
34 period not exceeding 180 days from the date upon which the original
35 certificate is certified to the clerk of superior court. The Division is further
36 authorized and empowered to issue alias copies of said certificate or
37 execution to the sheriff or sheriffs of such county or counties, or to a duly
38 authorized agent of the Division in all cases in which the sheriff or duly
39 authorized agent has returned an execution or certificate unsatisfied; when so
40 issued and in the hands of the sheriff or duly authorized agent of the
41 Division, such alias shall have all the force and effect of an alias execution
42 issued to such sheriff or duly authorized agent of the Division by the clerk of
43 the superior court upon a judgment of the superior court duly docketed in
44 said county. Provided, however, that notwithstanding any provision of this
45 subsection, upon filing one written notice with the Division, the sheriff of
46 any county shall have the sole and exclusive right to serve all executions and
47 make all collections mentioned in this subsection and in such case no agent
48 of the Division shall have the authority to serve any executions or make any
49 collections therein in such county. A return of such execution, or alias
50 execution, shall be made to the Division, together with all moneys collected
51 thereunder, and when such order, execution, or alias is referred to the agent

1 of the Division for service the said agent of the Division shall be vested with
 2 all the powers of the sheriff to the extent of serving such order, execution or
 3 alias and levying or collecting thereunder. The agent of the Division to
 4 whom such order or execution is referred shall give a bond not to exceed
 5 three thousand dollars (\$3,000) approved by the Division for the faithful
 6 performance of such duties. The liability of said agent shall be in the same
 7 manner and to the same extent as is now imposed on sheriffs in the service
 8 of executions. If any sheriff of this State or any agent of the Division who is
 9 charged with the duty of serving executions shall willfully fail, refuse, or
 10 neglect to execute any order directed to him by the said Division and within
 11 the time provided by law, the official bond of such sheriff or of such agent of
 12 the Division shall be liable for the contributions, penalty, interest, and costs
 13 due by the employer. Any judgment that is executable and allowed under
 14 this section shall be subject to attachment and garnishment under
 15 G.S. 1-359(b) in payment of unpaid taxes that are due from the employer
 16 and collectable under this Article."
 17

18 PART III: REQUIRE PHOTO IDENTIFICATION TO RECEIVE UI BENEFITS

19 SECTION 3.1. G.S. 96-14.9 reads as rewritten:

20 "§ 96-14.9. Weekly certification.

21 (a) Requirements. – An individual's eligibility for a weekly benefit amount is
 22 determined on a week-to-week basis. An individual must meet all of the requirements of this
 23 section for each weekly benefit period. An individual who fails to meet one or more of the
 24 requirements is ineligible to receive benefits until the condition causing the ineligibility ceases
 25 to exist:

- 26 (1) File a claim for benefits.
- 27 (2) Report ~~at an employment office~~ as requested by the ~~Division~~ Division and
 28 present valid photo identification meeting the requirements of subsection (k)
 29 of this section.
- 30 (3) Meet the work search requirements of subsection (b) of this section.

31 ...

32 (k) Photo Identification. – The individual must present the Division one of the
 33 following documents bearing the individual's photograph:

- 34 (1) A drivers license, learner's permit, provisional license, or nonoperators
 35 identification card issued by North Carolina, another state, the District of
 36 Columbia, United States territory, or United States commonwealth.
- 37 (2) A United States passport.
- 38 (3) A United States military identification card.
- 39 (4) A Veterans Identification Card issued by the United States Department of
 40 Veterans Affairs.
- 41 (5) A tribal enrollment card issued by a federally recognized tribe.
- 42 (6) Any other document that the Division determines adequately identifies the
 43 individual and issued by the United States, any state, the District of
 44 Columbia, United States territory, or United States commonwealth."

46 PART IV: EFFECTIVE DATE

47 SECTION 4.1. Except as otherwise provided, this act is effective when it becomes
 48 law.